SECTION II: REMARKS

A. Summary of Amendments to the Claims

By the present amendment, claims 18 and 20 have been amended to address formalities – namely, inclusion of the conjunctive term "and" where appropriate. No new matter within the meaning of 35 U.S.C. 132(a) has been introduced by such amendments.

B. The Claim Rejections Under 35 U.S.C. 103(a) Should Be Withdrawn

The August 18, 2009 Office Action contained numerous rejections under 35 U.S.C. 103(a), namely:

- a rejection of claims 1, 11, 14, 18, 20-28, and 32 as allegedly being unpatentable for obviousness over U.S. Patent Application Publication No. 2001/0016834 to Yamanaka et al. ("Yamanaka") in view of U.S. Patent Application Publication No. 2003/0046548 to Brown et al. ("Brown"), further in view of U.S. Patent Application Publication No. 2007/0101139 to Bayer ("Bayer");
- a rejection of claims 2 and 15-17 as allegedly being unpatentable for obviousness over Yamanaka, Brown, and Bayer, and further in view of U.S. Patent No. 6,874,018 to Wu ("Wu");
- a rejection of claims 4 and 29-31 as allegedly being unpatentable for obviousness over Yamanaka, Brown, Bayer, and Wu, and further in view of U.S. Patent Application Publication No. 2004/0220926 to Lamkin et al. ("Lamkin");
- a rejection of claims 10 and 34 as allegedly being unpatentable for obviousness over Yamanaka, Brown, and Bayer, and further in view of Lamkin;
- a rejection of claims 6-8 as allegedly being unpatentable for obviousness over Yamanaka, Brown, Bayer, and Wu, and further in view of Lamkin;

- a rejection of claims 12-13 and 19 as allegedly being unpatentable for obviousness over Yamanaka, Brown, and Bayer, and further in view of U.S. Patent Application Publication No. 2004/0003398 to Donian et al. ("Donian");
- a rejection of claim 9 as allegedly being unpatentable for obviousness over Yamanaka, Brown, Bayer, and Lamkin, and further in view of Donian; and
- a rejection of claims 5 and 33 as allegedly being unpatentable for obviousness over Yamanaka, Brown, Bayer, and Wu, and further in view of U.S. Patent Application Publication No. 2004/0031377 to Ochiyama et al. ("Ochiyama")

Such rejections are traversed.

Claims 1, 2, and 4-34 are pending in the above-identified application, with claims 1, 18, and 20 being independent claims, and the balance of claims depending (whether directly or indirectly) on one of claims 1, 18, or 20. Applicants submit that for at least the following reasons, all pending claims are patentable over Yamanaka, Brown, Bayer, Wu, Lamkin, Donian, and Ochiyama.

Independent claims 1, 18, and 20 each require (*inter alia*) separate transmission of control commands each time the electronic application renders the electronic content accessible to the user, and maintaining a count of a number of times that the control commands are transmitted.

In the August 19, 2009 Office Action at page 4, the examiner conceded that neither Yamanaka nor Brown disclose maintaining a count of a number of times that control commands are transmitted. At pages 4-5 of the August 19, 2009 Office Action, the examiner alleged that Bayer teaches that "control commands are separately transmitted each time the electronic application renders the electronic content accessible to the user" and "maintaining a count of a number of times that the control commands are transmitted." Applicants respectfully disagree with the examiner's characterization of Bayer in this regard.

Bayer discloses a system for distributing electronic surveys and similar information, including a web site addressable by one or more client computer systems for connecting to the content protection system over the Internet or other public network. Viewer software is installed at the client computer and generates unique viewer identification information that is used for registering the viewer with a respondent. Based

on a survey invitation, a client computer may be used to participate in a survey transmitted by a server. The client computer system enables the content viewer to connect to the web site of the content protection system and download a file with encrypted content information for that survey. The viewer software sends a request to the content protection system for a key to decrypt the downloaded content information. Based on various criteria, including whether the survey has yet been taken by a user at the client computer, a decryption key is sent to the client computer system and the viewer uses the key to decrypt the encrypted content information file for viewing thereof. During viewing, the viewer ignores interrupts from the keyboard and mouse which typically allow the user to access information and thereby enable copying, such as a print screen key, right mouse button, or screen scraper. If the user selects another window other than the window of the viewer, the viewer stops showing the decrypted content and displays a protection image in its place. Thus, the content information is protected from authorized viewing by encryption and protected from unauthorized copying by limiting the ability of the user access to only viewing. (Bayer, ¶¶ [0010]-[0011].) A primary purpose of Bayer is to enable conduction of surveys over the Internet in which content information of the survey is protected from unauthorized viewing or copying. (Bayer, ¶¶ [0003]-[0006].)

Figure 3 of Bayer illustrates various tables 24-30 contained in a database (i.e., the database 20 shown in Bayer Figure 1) of a content protection system. At paragraph [0024], Bayer states:

> "The View Content table 26 has records with the following data fields: ContentID; SurveyID; RespondentID; and **Count**, the number of times the client computer system associated with the RespondentID **has viewed the content file** associated with the ContentID for the survey associated with the SurveyID of this record."

Bayer thus clearly discloses that the "Count" data field in the View Content table 26 represents the number of times a client computer has viewed a content file.

At paragraphs [0032]-[0037] thereof, Bayer discusses conditions for sending a decryption key from a Key server 15 to a client computer system 18. If various conditions are not satisfied sufficient enable transmission of a decryption key, then an

error message will be sent to the client computer system 18 from the Key server[1]. "After sending the key, if a record exists in the View Content table 26 for the ContentID, SurveyID, and RespondentID of the request, then the Key server increments the count value by one; otherwise the Key server adds a record in the View Content table for the ContentID, SurveyID, and RespondentID and the count value is set to one." Referring back to paragraph [0024] of Bayer, such paragraph clearly states that the data field "**Count**" in the View Content table 26 identifies "the number of times the client computer system associated with the RespondentID **has viewed the content file**."

Applicants' independent claims 1, 18, and 20 all expressly require maintenance of a count of a number of times that control commands are transmitted. Although Bayer mentions that the "Count" is subject to modification after a decryption key is sent (Bayer, ¶[0037]), the "Count" maintained by Bayer clearly embodies the number of times a client computer has viewed a content file. A count of the number of viewings of a content file is not the same as a count of the number of times that control commands are transmitted, as claimed in Applicants' independent claims 1, 18, and 20. For example, Bayer refers to disallowing of viewing of content when a user clicks on another window of the screen (e.g., to prevent a user from copying information contained in a survey), and instead displaying a copyright notice or other message, such that further display of content is only accessible when a user clicks on the viewer window[2]. Bayer's teaching that access to viewing of electronic content may be interrupted demonstrates that the number of views of a content file is different from the number of transmissions of decryption keys.

Further, the fact that Bayer discloses interrupted access to viewing of decrypted content by the user clicking on another window on a screen, and that such viewing may be resumed when the "user click[s], via the mouse, on the viewer window" also demonstrates that Bayer does not embody "separate transmission of control commands each time the electronic application renders the electronic content accessible to the user" as further required by Applicants' claims 1, 18, and 20. Clicking of a mouse to render content accessible does not embody "separate transmission of control commands" that are "receivable from a party other than the user and that are generated upon the user

[1] Bayer, ¶ [0037].
[2] Bayer, ¶ [0039].

selecting and playing the electronic advertising content" within the meaning of claims 1, 18, and 20.

It is therefore clear that Bayer does not disclose either (a) maintaining a count of a number of times that the control commands are transmitted, or (b) separate transmission of control commands each time the electronic application renders the electronic content accessible to the user. The examiner conceded that Yamanaka and Brown fail to disclose the foregoing features in combination. None of the other references cited in the August 19, 2009 Office Action remedy the foregoing deficiencies of Yamanaka, Brown, and Bayer in disclosing the combination of (a) maintaining a count of a number of times that the control commands are transmitted, or (b) separate transmission of control commands each time the electronic application renders the electronic content accessible to the user, as required by Applicants' independent claims 1, 18, and 20. Indeed, no reference other than Bayer was alleged by the examiner to embody separate transmission of control commands each time the electronic application renders the electronic content accessible to the user, and maintaining a count of a number of times that the control commands are transmitted.

Because the cited art fails to embody all the features recited in Applicants' independent claims 1, 18, and 20, withdrawal of the rejections of such claims under 35 U.S.C. 103 is warranted, and is respectfully requested.

Additionally, because dependent claims inherently include all of the features of the claims on which they depend[3], dependent claims 2, 4-17, 19, and 21-34 are patentably distinguished over the cited art for at least the same reasons as presented hereinabove with respect to independent claims 1, 18, and 20. Accordingly, withdrawal of the rejections of dependent claims 2, 4-17, 19, and 21-34 is warranted, and is respectfully requested.

[3] 35 U.S.C. 112, fourth paragraph.

CONCLUSION

In light of the foregoing, Applicants respectfully submit that all of the now-pending claims are in condition for allowance. Examination of all pending claims and issuance of a notice of allowance are earnestly solicited. Should any issues remain that may be amenable to telephonic resolution, the examiner is invited to telephone the undersigned attorneys to resolve such issues as expeditiously as possible.

In the event there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 14-1270.

Respectfully submitted,

By: /vincent k. gustafson/
Vincent K. Gustafson
Registration No.: 46,182

INTELLECTUAL PROPERTY/
TECHNOLOGY LAW
P.O. Box 14329
Research Triangle Park, NC 27709
Phone: 919-419-9350

Dated: November 19, 2009

For: Kevin C. Ecker
Registration No.: 43,600
Phone: (914) 333-9618

Please direct all correspondence to:
Kevin C. Ecker, Esq.
Philips Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510-8001